

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

ATTORNEYS AT LAW

A Professional Corporation

P.O. Box 2079, Oakland, CA 94604-2079

1 J. Gary Gwilliam, Esq. (State Bar No. 33430)
2 Randall E. Strauss, Esq. (State Bar No. 168363)
3 Jayme L. Walker, Esq. (State Bar No. 273159)
4 GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER
5 1999 Harrison Street, Suite 1600
6 Oakland, CA 94612-3528
7 Telephone: (510) 832-5411
8 Facsimile: (510) 832-1918
9 Email: ggwilliam@giccb.com; rstrauss@giccb.com; jwalker@giccb.com

Attorneys for Plaintiff
FRANK CARSON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANK CARSON,

Plaintiffs,

vs.

COUNTY OF STANISLAUS, CITY OF
MODESTO, BIRGIT FLADAGER,
MARLISSA FERREIRA, DAVID HARRIS;
KIRK BUNCH, STEVE JACOBSON, JON
EVERS, CORY BROWN, and DOES 1-25,
inclusive,

Defendants.

Case No. 1:20-CV-00747-TLN-BAM

**STIPULATION AND ORDER TO FILE
AMENDED COMPLAINT**

1 Plaintiff FRANK CARSON (“Plaintiff”) and defendants COUNTY OF STANISLAUS
2 BIRGIT FLADAGER, MARLISSA FERREIRA, DAVID HARRIS; KIRK BUNCH, STEVE
3 JACOBSON, and CORY BROWN as well as DEFENDANTS CITY OF MODESTO AND JON
4 EVERS (“Defendants”) through their respective counsel, hereby agree and stipulate as follows:

5 1. WHEREAS Plaintiff filed the complaint [Document 1] in this action on May 28,
6 2020.

7 2. WHEREAS Plaintiff Defendants County of Stanislaus, Birgit Fladager, Marliissa
8 Ferreira, David Harris, Kirk Bunch, Steve Jacobson, and Cory Brown filed a Motion to Dismiss
9 Plaintiff’s Complaint [Document 13] on September 1, 2020. The hearing date for the motion is
10 set for December 3, 2020 at 2:00 p.m. in Courtroom 2 (TLN) before District Judge Troy L.
11 Nunley.

12 3. WHEREAS Defendants City of Modesto and Jon Evers filed a Rule(b)(6) Motion
13 to Dismiss the First Amended Complaint (incorrectly titled) [Document 16] on September 29,
14 2020. The hearing date for the motion is set for December 3, 2020 at 2:00 p.m. in Courtroom 2
15 (TLN) before District Judge Troy L. Nunley.

16 4. WHEREAS, PLAINTIFF FRANK CARSON died on August 12, 2020 and his
17 Estate was formed and will continue this action and other causes of action were either abated by
18 reason of Mr. Carson’s death or arose by reason of Mr. Carson’s death, the parties hereby
19 stipulate the filing of this amended Complaint with Defendants reserving all objections to the
20 sufficiency of the allegations.

21 5. All parties agree that the pending Motions to Dismiss are off calendar.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 6. Defendants' Responses will be due 30 days from the filing of the First Amended
2 Complaint.

3
4 DATE: November 19, 2020

GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER

5
6 /s/ Jayme L. Walker

7 J. Gary Gwilliam

8 Randall E. Strauss

9 Jayme L. Walker

Attorneys for Plaintiff

FRANK CARSON

10 DATE: November 19, 2020

PORTER SCOTT

A PROFESSIONAL CORPORATION

11
12 /s/ John R. Whitefleet (authorized on 11/19/20)

13 John R. Whitefleet

14 Attorneys for Defendants

COUNTY OF STANISLAUS, BIRGIT FLADAGER,

15 MARLISSA FERRIERA, DAVID HARRIS, KIRK

16 BUNCH, STEVE JACOBSEN, CORY BROWN

17
18 DATE: November 19, 2020

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP

19
20 /s/ Patrick Moriarty (authorized on 11/19/20)

21 Patrick Moriarty

22 Attorneys for Defendants

CITY OF MODESTO AND JON EVERS

ORDER

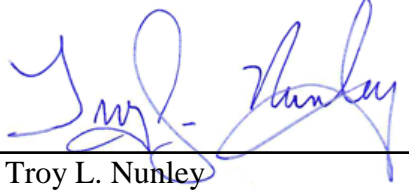
IT IS SO ORDERED.

1. Pursuant to the Parties' stipulation, Plaintiff will file an amended Complaint in the above captioned action.

2. The pending Motions to Dismiss are off calendar.

3. Defendants' Responses will be due 30 days from the filing of the First Amended Complaint.

Dated: November 19, 2020


Troy L. Nunley
United States District Judge